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August 17, 2022

**VIA ECF**

Jennifer E. Willis  
United States Magistrate Judge  
Thurgood Marshall  
United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *Taveras v. Herb Pharm, LLC*  
Case No. 22-cv-04427-JW

Dear Judge Willis:

As counsel for Defendant, I write to address the parties' settlement and to present the parties' joint request for judicial approval of the Consent Decree enclosed herewith.

Plaintiff's class action Complaint alleges that Defendant's website is a place of public accommodation which is not accessible to visually disabled persons in violation of the Americans with Disabilities Act and the New York City Human Rights Law. While Defendant does not admit liability, we have reached an early settlement with plaintiff individually in order to avoid the cost and inconvenience of litigation and to address the issues raised by this action in a mutually acceptable fashion. We hereby request that the Court so-order the Consent Decree, which has been fashioned as a reasonable resolution of the plaintiff's claims.

The Consent Decree "(1) springs from and serves to resolve a dispute within the court's subject-matter jurisdiction, (2) comes within the general scope of the case made by the pleadings, and (3) furthers the objectives of the law upon which the complaint was based." *Kozlowski v. Coughlin*, 871 F.2d 241, 244 (2d Cir. 1989) (internal bracketing omitted) (citing *Local Number 93, Int'l Ass'n of Firefighters v. City of Cleveland*, 478 U.S. 501, 525 (1986)); accord, *Crosson v. Popsockets LLC*, No. 19-cv-200 (CBA)(LB), 2019 WL 6134416, at \*2 (E.D.N.Y. Oct. 8, 2019), *adopted by* 2019 WL 6134153 (Nov. 19, 2019); *Riverkeeper, Inc. v. MLV Concrete Inc.*, No. 14-cv-3762 (LDH)(PK), 2017 WL 3172897, at \*2 (E.D.N.Y. June 26, 2017), *adopted by* 2017 WL 3172859 (July 25, 2017). See also, *Figueroa v. Arhaus, LLC*, No. 18 Civ. 10491 (GWG) (S.D.N.Y. Feb. 20, 2019) (DE16) (opinion

Hon. Jennifer E. Willis  
 August 17, 2022  
 Page 2

stating that the above standard should apply in a similar ADA action in order to approve a consent decree in an action between private parties).

Additionally, the Consent Decree is designed to serve as a shield for Defendant against claims by other potential plaintiffs who may come forward to assert similar claims based on the putative access violations that are being addressed and resolved pursuant to this settlement. Duplicative suits have been a recurring problem in similar matters handled by my law firm and other attorneys defending these matters around the country.

Counsel for Defendant has resolved many similar ADA website class actions in this Court and in other districts in which the courts have approved similar consent decrees.<sup>1</sup>

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<sup>1</sup> See *Sypert v. Pelham Country Club*, SDNY, 18-cv-6496 (GBD), October 12, 2018 (DE 12); *Mendizabal v. American Self Storage 636, LLC*, SDNY, 17-cv-10041 (ALC), October 15, 2018 (DE 23); *Burbon v. Maidpro Inc.*, SDNY, 18-cv-6290 (JMF), October 18, 2018 (DE 19); *Sypert v. Gefen*, SDNY, 18-cv-4336 (GBD), October 18, 2018 (DE 17); *Tucker v. CorePower Yoga*, SDNY, 18-cv-5394 (AJN), December 3, 2018 (DE 17); *Burbon v. Hometeam*, SDNY, 18-cv-4783 (VSB), December 27, 2018 (DE 20); *Mendez v. Madison York*, SDNY, 18-cv-4947 (VSB), January 2, 2019 (DE 15); *Murphy v. Cos Bar Retail LLC*, SDNY, 18-cv-06968 (RA), February 11, 2019 (DE 22); *Figueroa v. Arhaus, LLC*, SDNY, 18-cv-10491 (GWG), February 20, 2019 (DE 17); *Delacruz v. Naturopathica Holistic Health Inc.*, SDNY, 18-cv-07548 (KHP), March 19, 2019 (DE 23); *Diaz v. Georg Jensen, Inc.*, SDNY, 19-cv-00032 (SDA), March 20, 2019 (DE 16); *Camacho v. Neighborhood Playhouse School of Theatre*, SDNY, 18-cv-10946 (JPO), April 3, 2019 (DE 14); *Figueroa v. Magnolia Bakery Online LLC*, SDNY, 18-cv-9892 (PAE)(BCM), April 4, 2019 (DE 19); *Mendez v. Midway A.L. LLC*, SDNY, 18-cv-04946 (DCF), May 2, 2019 (DE 33); *Dominguez v. 1650 Broadway Assoc.*, SDNY, 18-cv-09819 (DCF), May 28, 2019 (DE 19); *Camacho v. Emory & Henry College*, SDNY, 18-cv-10601 (RA), June 4, 2019 (DE 22); *Diaz v. Levain Bakery*, SDNY, 18-cv-12392 (DAB), June 17, 2019 (DE 13); *Bishop v. Regal Marine Industries, Inc.*, SDNY, 19-cv-1323 (VSB), July 2, 2019 (DE 15); *Picon v. Brooklyn Gastroenterology and Endoscopy, PLLC*, SDNY, 18-cv-07936 (ALN), July 9, 2019 (DE 16); *Dawson v. King Arthur Flour Company, Inc.*, SDNY, 19-cv-01435 (ALN), July 9, 2019 (DE 14); *Thorne v. Datrex, Inc.*, SDNY, 19-cv-01045 (LTS)(BCM), July 15, 2019 (DE 17); *Thorne v. Seabring Marine Industries, Inc.*, SDNY, 19-cv-01299 (ALC), July 17, 2019 (DE 20); *Bishop v. Freedom Boat club, LLC*, SDNY, 19-cv-2636 (ALC), August 8, 2019 (DE 14); *Fischler v. Lotte Hotel New York Palace, LLC*, SDNY, 18-cv-10367 (PAC), September 4, 2019 (DE 14); *Lopez v. Concord Hospitality Enterprises Company, LLC*, SDNY, 19-cv-2626 (KPF), November 8, 2019 (DE 26); *Morgan v. The Hygenic Corporation*, SDNY, 19-cv-6934 (SN), December 13, 2019 (DE 23); *Traynor v. Neff, LLC*, SDNY, 19-cv-06214 (DCF), January 6, 2020 (DE 15); *Duncan v. Jay Suites I, LLC*, SDNY, 19-cv-03335 (KHP), January 14, 2020 (DE 39); *Traynor v. Teespring*, SDNY, 19-cv-06942 (JPO)(BCM), January 16, 2020 (DE 23); *Diaz v. The RealReal Inc.*, SDNY, 19-cv-7423 (SDA), January 30, 2020 (DE 23); *Foley v. Makita U.S.A., Inc.*, SDNY, 19-cv-01460 (CCR), February 12, 2020 (DE 11); *Nisbett v. Forty Five Ten HY, LLC*, SDNY, 19-cv-10785 (PGG)(SLC), February 24, 2020 (DE 12); *Duncan v. Aliz Group, LLC*, SDNY, 19-cv-07168 (LGS), February 24, 2020 (DE 24); *Dominguez v. Bohemian Citizens Benevolent Soc. of Astoria L.I.N.Y, et al.*, SDNY, 19-cv-11932 (JLC), April 3, 2020 (DE 19); *Bishop v. Beacway Operating, LLC*, SDNY, 20-cv-00362 (JMF), July 21, 2020 (DE 22); *Williams v. Bob's Stores, LLC*, SDNY, 20-cv-01596 (SN), August 4, 2020 (DE 19); *Monegro v. Rattler Holdings, LLC*, SDNY, 20-cv-06110 (VSB), September 30, 2020 (DE 10); *Nellon v. Vital Choice Seafood SPC*, D. Mass., 20-cv-10584 (IT), October 15, 2020 (DE 23); *Hedges v. The Southwestern College*, SDNY, 20-cv-06076 (RA), October 26, 2020 (DE 11); *Young v. Drury University*, SDNY, 20-cv-05718(RA), November 25, 2020 (DE 16); *Hedges v. Goya Foods, Inc.*, SDNY, 20-cv-05388(RA), December 23, 2020 (DE 20); *Monegro v. Greenvale Liquors, Inc.*, SDNY, 20-cv-08360(OTW), January 20, 2021 (DE 19); *Monegro v. Sports Licensing Solutions, LLC*, SDNY, 20-cv-06407 (VSB), January 26, 2021 (DE 16);

Hon. Jennifer E. Willis  
 August 17, 2022  
 Page 3

We respectfully request that Your Honor approve the enclosed Consent Decree for all of the reasons identified above.

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*Paguada v. Lee Michaels Fine Jewelers*, SDNY, 20-cv-07947 (VSB), February 3, 2021 (DE 13); *Paguada v. Hydrow*, 20-cv-08484 (JLC), SDNY, February 22, 2021 (DE 15); *Hedges v. Claflin University*, 20-cv-08443 (RWL), SDNY, February 22, 2021 (DE 22); *Paguada v. Martins Potato Chips, Inc.*, 20-cv-08657(LTS), SDNY, March 5, 2021 (DE 17); *Graciano v. Wing Enterprises, Inc.*, 20-cv-09052 (RWL), SDNY, March 8, 2021 (DE 21); *Romero v. Ottlite Technologies, Inc.*, 20-cv-07206 (SLC), SDNY, March 23, 2021 (DE 21); *Paguada v. Great Healthworks, Inc.*, 20-cv-09958(AJN), SDNY, March 24, 2021 (DE 14); *Quezada v. Universal Screen Arts, Inc.*, 20-cv-10464(JLC), SDNY, March 24, 2021 (DE 17); *Slade v. Allegiance Retail Services, LLC*, 20-cv-08358 (ALC)(JLC), SDNY, April 1, 2021, (DE 19); *Angeles v. Columbia River Knife & Tool Co.*, 20-cv-10543(MKV), SDNY, April 13, 2021 (DE 18); *Angeles v. Gold Standard Enterprises, Inc.*, 21-cv-00046(AJN), SDNY, April 16, 2021 (DE 14); *Sanchez v. Grip6 LLC*, 20-cv-10106(DCF), SDNY, April 20, 2021 (DE 24); *Monegro v. Sweet Street Desserts, Inc.*, 20-cv-10987(GBD), SDNY, April 20, 2021 (DE 15); *Thorne v. Kidkraft, Inc. et al*, 20-cv-09378(JPO), SDNY, April 22, 2021 (DE 17); *Sanchez v. Royal Cup Inc.*, 21-cv-02353 (VSB), SDNY, May 6, 2021 (DE 10); *Jaquez v. 10 Lenox Development Ventures LLC*, SDNY, May 10, 2021 (DE 31); *Sanchez v. USGB LLC*, 21-cv-02294 (GBD), SDNY, June 10, 2021 (DE 12); *Sanchez v. The Wasserstrom Company*, 21-cv-02347(JPO), SDNY, June 17, 2021 (DE 10); *Sosa v. Just Born, Inc.*, 21-cv-04234 (RA), SDNY, June 17, 2021 (DE 14); *Quezada v. Segway Inc.*, 21-cv-02142 (PAE), SDNY, June 24, 2021 (DE 17); *Sanchez v. Copart, Inc.*, 21-cv-01808 (RWL), SDNY, June 25, 2021 (DE 15); *Williams v. Worldwide Wholesale Floor Covering, Inc.*, 21-cv-02538 (GWG), SDNY, July 15, 2021 (DE 17); *Williams v. White Flower Farm, Inc.*, 21-cv-00512 (KHP), SDNY, July 22, 2021 (DE 30); *Tatum-Rios v. Square Grove, LLC*, 21-cv-02995 (DCF), SDNY, July 23, 2021 (DE 18); *Sanchez v. Lovely Skin, Inc.*, 21-cv-00929 (MKV), SDNY, July 23, 2021 (DE 10); *Monegro v. Peter Thomas Roth Labs, LLC*, 20-cv-06413 (ALC), SDNY, July 27, 2021 (DE 13); *Angeles v. Politics and Prose Inc.*, 21-cv-05190 (JMF), SDNY, September 9, 2021 (DE 15); *Slade v. LaDove, Inc.*, 21-cv-05617 (KHP), SDNY, September 9, 2021 (DE 14); *Roman v. McCrea Capital Advisors Inc.*, 21-cv-05550 (SLC), SDNY, October 1, 2021 (DE 18); *Crumwell v. Mervis Diamond Corporation*, 21-cv-07817 (PGG), SDNY, November 4, 2021 (DE 13); *Crumwell v. The Cookware Company (USA), LLC*, 21-cv-07561 (VSB), November 19, 2021 (DE 15); *Nisbett v. Suitable Inc.*, 21-cv-06293 (LGS), SDNY, November 24, 2021 (DE 19); *Calcano v. Timothy Oulton Retail USA Corporation*, 21-cv-09401 (JLC), SDNY, February 4, 2022 (DE 19); *Contreras v. Military Uniform Supply, Inc.*, 21-cv-09708 (OTW), SDNY, February 18, 2022 (DE 16); *Sosa v. The Animal Medical Center*, 21-cv-10235 (LGS), SDNY, February 24, 2022 (DE 17); *Estevez v. Missouri River Soap LLC*, 21-cv-09088 (JLC), SDNY, March 1, 2022 (DE 16); *Tavarez-Vargas v. Pre-Paid Legal Services, Inc.*, 21-cv-09821 (KPF), SDNY, March 7, 2022 (DE 18); *Tavarez v. Sourcebooks*, 21-cv-09783 (GWG), SDNY, March 7, 2022 (DE 17); *Cruz v. Pure Steeps Beverage LLC*, 21-cv-09957 (KHP), SDNY, March 15, 2022 (DE 17); *Ortega v. Arteriors Home, L.P.*- 21-cv-10291 (SDA), SDNY, March 17, 2022 (DE 16); *Fischler v. NVA RE, LLC*, 21-cv-09218 (ALC), SDNY, April 4, 2022 (DE 11); *Contreras v. Kalalou, Inc.*- 22-cv-00452 (JGK), SDNY, April 8, 2022 (DE 14); *Tavarez-Vargas v. Printfly Corporation*, 21-cv-09948 (ALC), SDNY, April 11, 2022 (DE 13); *Contreras v. Gentex Corporation*, 21-cv-11203 (RWL), SDNY, April 21, 2022 (DE 16); *Abreu v. Good Guy Vapes Int LLC*, 22-cv-01850 (GWG), SDNY, April 26, 2022 (DE 13); *Ortega v. Buck Knives, Inc.*, 21-cv-10734 (KPF), SDNY, April 26, 2022 (DE 23); *Paguada v. Andis Company*, 22-cv-00829 (SN), SDNY, April 29, 2022 (DE 16); *Abreu v. Wiley X, Inc.*, 22-cv-01094 (LGS), SDNY, May 3, 2022 (DE 15); *Weekes v. MerchNow, LLC*, 21-cv-10802 (PGG), SDNY, May 6, 2022 (DE 19); *Guerrero v. Great Divide Brewing Company*, 22-cv-00275 (JPO), SDNY, May 20, 2022 (DE 16); *Crumwell v. Gold Eagle Co.*, 22-cv-1508 (PAE), SDNY, June 10, 2022 (DE 16); *Contreras v. 203 Fresh Body, LLC*, 22-cv-00458 (JMF), SDNY, June 15, 2022 (DE 21); *Ortega v. Big Spoon Roasters LLC*, 22-cv-00926 (RWL), SDNY, July 25, 2022 (DE 25).

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Hon. Jennifer E. Willis  
August 17, 2022  
Page 4

Thank you for your attention to this matter.

Respectfully,

*Peter T. Shapiro*

Peter T. Shapiro of  
LEWIS BRISBOIS BISGAARD &  
SMITH LLP

cc: Counsel for Plaintiff (via ECF)